BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JUDIE LYNN ENDICOTT)
Claimant)
VS.)
) Docket No. 228,533
RIVERSIDE HEALTH SYSTEM)
Respondent)
AND)
)
PHICO INSURANCE COMPANY)
Insurance Carrier)

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge John D. Clark on May 11, 1999.

ISSUES

The Administrative Law Judge denied claimant's request for preliminary benefits on the grounds that claimant has reached maximum medical improvement. On appeal, claimant contends that the Administrative Law Judge erred because respondent has advised it cannot accommodate claimant within the current work restrictions and respondent will neither admit nor deny that it has terminated claimant from its employment. Claimant argues that respondent has not terminated claimant from employment and claimant is entitled to continue to receive temporary total disability benefits until respondent can offer an accommodated work position.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the issue raised in this appeal does not amount to an allegation the Administrative Law Judge has exceeded his jurisdiction and for that reason the appeal must be dismissed.

At the preliminary hearing held in this case on May 11, 1999, the parties made oral argument and presented medical reports. The medical reports of Dr. Richard S. Piazza and Dr. Phillip R. Mills both reflect that claimant has undergone two surgeries to the right

shoulder. Dr. Piazza provided a rating for claimant's impairment and stated there is no effective treatment for this type of chronic problem. He further stated claimant will not be able to return to her regular occupation. Dr. Mills stated that claimant had reached maximum medical improvement.

The Appeals Board has limited jurisdiction when reviewing preliminary hearing orders. The Board may consider only allegations that the Administrative Law Judge has exceeded his or her jurisdiction. K.S.A. 1998 Supp. 44-551. This includes review of the jurisdictional issues listed in K.S.A. 1998 Supp. 44-534a. The issue raised by claimant in this appeal is not, in our view, a jurisdictional issue. For that reason, the Appeals Board finds that it does not have jurisdiction to consider this appeal.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal of the preliminary hearing Order entered by Administrative Law Judge John D. Clark on May 11, 1999, should be, and is hereby, dismissed.

II IS SO ORDERED.
Dated this day of July 1999.
BOARD MEMBER

c: W. Walter Craig, Wichita, KS Scott J. Mann, Hutchison, KS John D. Clark, Administrative Law Judge Philip S. Harness, Director